

Appl. No. 10/815,305  
Amdt. dated August 30, 2006  
Reply to Advisory Action of July 31, 2006

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**Amendments to the Claims:**

This listing of claims will replace all prior versions, and listings, of claims in the application:

**Listing of Claims:**

Claims 1-12 (Canceled)

Claim 13. (Original): A method of delivering microbiologically safe lipid-based inclusions to yogurt comprising the steps of

- a) providing a filling for yogurt, wherein the filling has been pasteurized or aseptically processed;
- b) providing a lipid-based mixture that will be used to form the lipid-based inclusions;
- c) heating the lipid-based mixture to a temperature sufficient for pasteurization for an amount of time sufficient to pasteurize the lipid-based mixture;
- d) chilling the aseptically processed filling to a temperature below the temperature required to crystallize the lipid-based mixture;
- e) injecting a stream of the heated lipid-based mixture into the chilled filling to form a mixture of filling and lipid-based mixture, wherein the stream of the heated lipid-based mixture is added to the filling in a manner which minimizes exposure to environmental contamination with microbes, and wherein the lipid-based mixture crystallizes in the filling; and
- f) agitating the mixture of step e to form the inclusions.

Claim 14. (Original): The method of claim 13 wherein the filling of step a has a pH of less than 4.2.

Claim 15. (Original): The method of claim 14 wherein the filling of step a has a pH of less than 4.

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Claim 16. (Original): The method of claim 13 wherein the filling has an  $A_w$  of less than 0.75.

Claim 17. (Original): The method of claim 16 wherein the filling has an  $A_w$  of less than 0.7.

Claim 18. (Original): The method of claim 17 wherein the filling has an  $A_w$  of less than 0.65.

Claim 19. (Original): The method of claim 13 wherein the filling is chilled to less than 50°F.

Claim 20. (Original): The method of claim 19 wherein the filling is chilled to less than 40°F.

Claim 21. (Original): The method of claim 20 wherein the filling is chilled to less than 30°F.

Claim 22. (Original): The method of claim 13 wherein the filling is a fruit-flavored filling or a non-fruit flavored filling.

Claim 23. (Original): The method of claim 13 wherein the lipid-based inclusions are selected from the group consisting of chocolate, chocolate compound coating, butterscotch, caramel, fruit-flavored, and combinations thereof.

Claim 24. (Original): The method of claim 13 wherein the lipid-based mixture is added to the filling in the range from 15 to 20% by weight.

Claim 25. (Original): The method of claim 13 further comprising the step of packaging the filling with yogurt.

Claim 26. (Original): The method of claim 13 further comprising the step of blending the filling with yogurt.

Claim 27. (Original): A method of delivering lipid-based inclusions to yogurt comprising the steps of:

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- a) providing a filling for yogurt, wherein the filling has a pH of 4.6 or less;
- b) chilling the filling to a temperature below the temperature required to crystallize the lipid-based inclusions;
- c) providing a lipid-based melt that will form the inclusions when crystallized;
- d) injecting the lipid-based melt into the chilled filling;
- e) allowing the lipid-based melt to at least partially solidify in the chilled filling; and
- f) agitating the mixture of step e to form the lipid-based inclusions in the filling;

wherein the lipid-based inclusions maintain physical integrity and microbiological stability when the filling is incorporated into yogurt.

Claim 28. (Original): The method of claim 27 wherein the filling has been chilled to less than 50°F.

Claim 29. (Original): The method of claim 28 wherein the filling has been chilled to less than 40°F.

Claim 30. (Original): The method of claim 29 wherein the filling has been chilled to less than 30°F.

Claim 31. (Original): The method of claim 27 wherein the filling is selected from fruit flavored fillings and non-fruit flavored fillings.

Claim 32. (Original): The method of claim 27 wherein the inclusions are selected from the group consisting of chocolate, chocolate compound coatings, butterscotch, caramel, fruit-flavored, and combinations thereof.

Claim 33. (Original): The method of claim 27 wherein the lipid-based mixture is added to the filling in the range from 15 to 20% by weight.

Claim 34. (Original): The method of claim 27 further comprising the step

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g) blending the filling of step f with yogurt to form a yogurt containing lipid-based inclusions.

Claim 35. (Original): The method of claim 34 wherein the yogurt contains from 1.5 to 5% lipid-based inclusions by weight.

Claim 36. (Original): The method of claim 27 further comprising the step

g) packaging the filling of step f with yogurt.

Claim 37. (Original): The method claim 36 wherein the yogurt contains from 1.5 to 5% lipid-based inclusions by weight.

Claim 38. (Original): A method of delivering lipid-based inclusions to yogurt comprising the steps of

- a) providing filling for yogurt, wherein the filling is a high solids syrup mix having a water activity ( $A_w$ ) of less than 0.75;
- b) chilling the filling to a temperature below the temperature required to crystallize the lipid-based inclusions;
- c) providing a lipid-based melt that will form the inclusions when crystallized;
- d) injecting the lipid-based melt into the chilled filling;
- e) allowing the lipid-based melt to at least partially solidify in the chilled filling; and
- f) agitating the mixture of step e to form the lipid-based inclusions in the filling.

Claim 39. (Original): The method of claim 38 wherein the filling has an  $A_w$  of less than 0.7.

Claim 40. (Original): The method of claim 39 wherein the filling has an  $A_w$  of less than 0.65.

Claim 41. (Original): The method of claim 38 wherein the pH of the filling is less than 4.6.

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- Claim 42. (Original): The method of claim 41 wherein the pH of the filling is less than 4.2.
- Claim 43. (Original): The method of claim 42 wherein the pH of the filling is less than 4.0.
- Claim 44. (Original): The method of claim 38 wherein the filling is chilled to less than 50°F
- Claim 45. (Original): The method of claim 44 wherein the filling is chilled to less than 40°F.
- Claim 46. (Original): The method of claim 45 wherein the filling is chilled to less than 30°F.
- Claim 47. (Original): The method of claim 38 wherein the filling is a fruit based filling or a non-fruit based filling.
- Claim 48. (Original): The method of claim 38 wherein the lipid-based inclusions are selected from the group consisting of chocolate, chocolate compound coating, butterscotch, caramel, fruit-flavored, and combinations thereof.
- Claim 49. (Original): The method of claim 48 wherein the lipid-based inclusions are selected from the group consisting of chocolate, chocolate compound coating and combinations thereof.
- Claim 50. (Original): The method of claim 49 wherein the lipid-based inclusions are added to the filling in the range from 15 to 20% by weight.
- Claim 51. (Original): The method of claim 38 further comprising the step
- g) blending the filling of step f with yogurt to form a yogurt containing lipid-based inclusions.
- Claim 52. (Original): The method of claim 51 wherein the yogurt contains from 1.5 to 5% lipid-based inclusions by weight.
- Claim 53. (Original): The method of claim 38 further comprising the step

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g) packaging the filling of step f with yogurt.

Claim 54. (Original): The method claim 53 wherein the yogurt contains from 1.5 to 5% lipid-based inclusions by weight.

Claims 55-65 (Canceled)